

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Christine Hopkins)
Dist. 2, Map 53H, Group A, Control Map 53H,) Franklin County
Parcel 18.00, S.I. 000)
Residential Property)
Tax Year 2007)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$405,000	\$ -0-	\$405,000	\$101,250

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on November 7, 2007 in Winchester, Tennessee. The taxpayer, Christine Hopkins, was represented by her daughter, Theresa Cates. The assessor of property, Phillip Hayes, represented himself.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of an unimproved lot located on Tims Ford Lake in the Hopkins Point Phase I Subdivision in Winchester, Tennessee.

The taxpayer contended that subject property should be valued at \$265,600. In support of this position, the taxpayer argued that subject lot experiences a diminution in value for the following reasons. First, subject lot constitutes one of only ten lots in the 102 lot subdivision limited to two bedrooms. Second, subject lot is one of only ten lots in the subdivision requiring a lift pump. Third, because the drainage ditch on the north side of the property does not follow the property line, a significant portion of the lot cannot be used without changing the drainage line. Fourth, the north side drainage element was not lined with rocks as are all other main drainage elements in the subdivision. Fifth, an old road bed cuts through the middle of the lot which the taxpayer maintained will have to be filled at a cost of approximately \$50,000.

Given the above factors, as well as the current housing slump, the taxpayer asserted that the appraisal of subject lot should not have more than tripled between countywide reappraisal programs. The taxpayer contended it would be more reasonable to double the prior appraisal of \$132,800. The taxpayer also noted that (1) no lot in the subdivision has ever sold for over \$250,000; and (2) no lot on Tims Ford Lake has sold for \$450,000 which was the base value the assessor of property assigned to lots in the subdivision.¹

¹ The assessor appraised subject lot assuming a unit land price of \$450,000 and 100% condition factor. The Franklin County Board of Equalization reduced the condition factor to 90%. According to the property record card, 5% was for the ditch and 5% for the fact only a two bedroom dwelling can be constructed on subject lot.

The assessor contended that subject property should be valued at \$405,000. In support of this position, four improved and three vacant lot sales were introduced into evidence. The assessor maintained that subject lot is superior to the vacant lots which sold for \$350,000, \$355,000 and \$365,000.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$350,000. As will be discussed below, the administrative judge finds that the assessor's vacant lot sales should receive greatest weight and support a value of \$350,000 for subject lot.

Since the taxpayer is appealing from the determination of the Franklin County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject lot as of January 1, 2007 constitutes the relevant issue. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2.

Respectfully, the administrative judge finds that although the taxpayer's exhibit listed numerous sales, the sales were not adjusted or analyzed in any meaningful fashion. For example, the taxpayer argued that only sales in subject subdivision should be considered. Yet, the taxpayer's exhibit lists only four sales with the following sales prices: \$26,000,

\$26,000, \$28,000 and \$250,000. The administrative judge finds that the three lots which sold for \$26,000-\$28,000 are obviously not comparable. The administrative judge finds that no conclusions of value can be reached from the sole remaining sale absent additional analysis. Moreover, one sale does not necessarily establish market value. As observed by the Arkansas Supreme Court in *Tuthill v. Arkansas County Equalization Board*, 797, S. W. 2d 439, 441 (Ark. 1990):

Certainly, the current purchase price is an important criterion of market value, but it alone does not conclusively determine the market value. An unwary purchaser might pay more than market value for a piece of property, or a real bargain hunter might purchase a piece of property solely because he is getting it for less than market value, and one such isolated sale does not establish market value.

The administrative judge finds that the sales introduced by the assessor indicate a significantly higher range of value for lots in the area.

As previously noted, the taxpayer's contended value of \$265,600 was arrived at by doubling the assessor's previous appraisal of subject lot. The administrative judge finds that such an approach does not comport with generally accepted appraisal practices and cannot receive any weight whatsoever. The administrative judge also finds that the current housing slump has no relevance given a January 1, 2007 assessment date pursuant to Tenn. Code Ann. § 67-5-504(a). See *Ashland City Industrial Corporation* (Cheatham County - Tax Year 1989) wherein the Assessment Appeals Commission ruled that "[e]vents occurring after [the assessment] date are not relevant unless offered for the limited purpose of showing that assumptions reasonably made on or before the assessment date have been borne out by subsequent events." Final Decision and Order at 3.

The administrative judge finds that the three vacant lot sales introduced by the assessor should initially receive greatest weight. However, given sales prices of \$350,000, \$355,000 and \$365,000 and the fact the sales were not adjusted, the administrative judge must respectfully reject the assessor's assertion that the sales support a base lot value of \$450,000 or even \$405,000. The administrative judge finds the three sales established a reasonably narrow range of value. The administrative judge finds that subject lot should be valued at the low end of the range due to the various deficiencies summarized above.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$350,000	\$ -0-	\$350,000	\$87,500

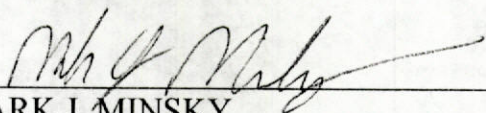
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 21st day of November, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Ms. Theresa Cates
Ms. Christine Hopkins
Phillip Hayes, Assessor of Property